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10/531,057

04/12/2005

John C. Evans

2765/156US

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23638

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01/09/2008

ADAMS INTELLECTUAL PROPERTY LAW, P.A.

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CHARLOTTE, NC 28244

EXAMINER

PATEL, TARLA R

ART UNIT

PAPER NUMBER

3772

MAIL DATE

DELIVERY MODE

01/09/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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## Office Action Summary

Application No.

10/531,057

Applicant(s)

EVANS, JOHN C.

Examiner

Tarla R. Patel

Art Unit

3772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/11/05 and 8/26/05</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

#### ***Information Disclosure Statement***

1. The information disclosure statement (IDS) submitted on 7/11/05 and 8/26/05. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2, 5, 6, 7, 8, 11, 12-14, 15, 16 and 19-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parker et al. (5,755,678) in view of Parikh et al. (5,133,199).

Parker et al. discloses a medical bandaging material (abstract), comprising a warp knitted fabric with stitches (column 5 lines 33-42), a reactive system impregnated into or coated onto the substrate (column 7 lines 42-46, moisture-curable resin such as

polyisocyanate, column 11 line 38-column 12 line 2), the system remaining stable when maintained in substantially moisture-free conditions and hardening upon exposure to moisture to form a rigid, self supporting structure (column 5 lines 3-14 and column 11 lines 38-52) and tubular wrapping surrounding a substrate (18, column 7 lines 37-42), an outer container formed of moisture-impervious material (11 together with 10 and 13), a medical bandaging material positioned in the container in substantially moisture-free conditions and sealed therein against entry of moisture until use (column 7 lines 6-12).

With respect to claims 12 and 21, Parker et al. discloses a tubular wrapping is formed of a synthetic, hydrophobic fabric (column 7 lines 37-40).

With respect to claims 13 and 22, Parker et al. discloses the reactive system comprises a blended polyisocyanate, polyol, catalyst and stabilizer (column 7 lines 50-60).

With respect to claim 20, Parker et al. discloses the container is fabricated of an aluminum foil laminate having an outer tear resistant layer, a central aluminum foil layer and inner heat sealable plastic layer (column 7 line 65-column 8 line 5).

With respect to claim 23, Parker et al. discloses the outer container defines a bag which receives a coil of medical bandaging material, and an elongated sleeve for dispensing medical bandaging material (column 7 lines 6-12).

With respect to claims 24 and 25, Parker et al. discloses a means for resealing an end of outer container against the entry of moisture after a length of the medical banding product has been removed therefrom (column 7 lines 16-270 and medical bandaging material contained therein are pre cut to a selected length and the ends of outer container are sealed against the entry of moisture therein (column 7 lines 28-33).

However, Parker et al. does not disclose the stitches are chain stitches are constructed from fiberglass yarns and the inlay stitch is constructed from an inelastic low modulus polymeric yarn, such that fraying and unraveling of a cut edge of substrate is prevented, inlay stitch is constructed from polypropylene yarn and medical bandaging material has an extensibility of between 20% and 35% in the lengthwise direction prior to initiation of the curing process.

However, Parikh et al. teaches a conformable stretch bandage with chain stitch and inlay stitch in yarn inlay (column 9 lines 7-11), further yarn include acrylic fibers such as polypropylene and polyesters (column 4 lines 38-43) and bandage of this invention, the number of filling yarns per inch of bandage under 100 % extension (column 6 lines 42-54, that meets the required 20% to 35% extensibility). At the time of invention was made, it would have been obvious to one having ordinary skill in art to have chain stitch and use the polypropylene material to have inlay stitch to device of Parker et al. with the under 100% extension properties of the bandage, as taught by Parikh et al. to have better overlaying of the layer for the bandaging material and extension brings the crimped, curled and looped nature of the warp yarns into prominence as a dominant surface characteristic of the bandages.

With respect to claims 5, 11 and 19, Parker et al. does not disclose the substrate weights between 120-170 grams per square meter.

However, Parikh et al. teaches a conformable stretch bandage having bandage as formed has a weight of about 75 grams per square yard or 90 grams per square meter (column 6 lines 26-35). At the time of

invention was made, it would have been obvious to one having ordinary skill in the art to modify the device of Parker et al. to 120-170 grams per square meter, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. In re Aller, 105 USPQ 233.

With respect to claim 26, Parker et al. obviously discloses a method of applying a splint to a selected body part, comprising the steps of providing an initially-moldable, medical bandaging material positioned in a container in substantially moisture-free conditions and sealed therein against entry of moisture until use, medical bandaging material comprising all the structural limitation described above, wetting medical bandaging material, urging medical bandaging material against selected body part and into a position whereby the body part is supported in a desired position, molding the medical bandaging material while flexible to the body part with the body part the desired position and allowing the medical bandaging material to harden on the body part (column 8 line 49-column 9 line 20).

4. Claims 3, 9, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parker et al. and Parikh et al. in view of Effenberger et al. (5,141,800).

Parker et al. and Parikh et al. substantially disclose the invention, please see rejection to claims 1, 2, 5, 6, 7, 8, 11, 12-14, 15, 16 and 19-26; however, Parker et al. and Parikh et al. do not disclose that fiberglass yarns constitute between 75% and 95% of the total weight of substrate.

However, Effenberger et al. teaches a method of making laminated PTFE-containing composites and products thereof having a standard woven fiberglass fabric with 90 weight % (column 10 lines 9-15). at the time of invention was made, it would have been obvious to one having ordinary skill in art to use the standard woven fiberglass fabric with 90 weight % to device of Parker et al. and Parikh et al., as taught by Effenberger et al. to do not cause delamination of the product.

5. Claims 4, 10, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parker et al. and Parikh et al. in view of WADSWORTH et al. (2003/0129908).



Parker et al. and Parikh et al. substantially disclose the invention, please see rejection to claims 1, 2, 5, 6, 7, 8, 11, 12-14, 15, 16 and 19-26; however, Parker et al. and Parikh et al. do not disclose that polypropylene yarns constitute between 75% and 95% of the total weight of substrate.

However, WADSWORTH et al. teaches a stretchable, cotton-surfaced nonwoven, laminated fabric having spunbound polypropylene core layer with various weight % (0042). at the time of invention was made, it would have been obvious to one having ordinary skill in art to use the properties of weight % of polypropylene core layer to device of Parker et al. and Parikh et al., as taught by WADSWORTH et al. have layer fed into the calendar nip together.

### ***Conclusion***

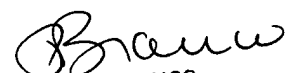
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tarla R. Patel whose telephone number is 571-272-3143. The examiner can normally be reached on M-T 6-3.30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be

reached on 571-272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
TP

  
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1/7/08